

In the United States Bankruptcy Court  
For the District of Arizona

In re:	)	Chapter 7
	)	
Brian and Alice Narducci	)	Case No.2:09-bk-27114-RTB
	)	
Debtor.	)	<b>Opposition to Motion for Relief from</b>
	)	<b>Stay</b>
Mortgage Electronic Registration , Inc. As	)	
sel-styled and purported nominee for Colonial	)	
National Mortgage, a division of Colonial	)	
Savings	)	
_____	)	

The debtors oppose Mortgage Electronic Registration Systems, Inc.'s Motion for Relief from Stay on three grounds 1) lack of standing; 2) lack of proof an interest in the deed of trust; and 3) the relief sought this overly broad and violates debtors protected rights under Bankruptcy Law.

1.The Movant, Mortgage Electronic Registration, Inc. is not entitled to bring claims on behalf of a different entity. Standing is a "threshold question in every federal case, determining the power of the court to entertain the suit." *Warth v. Seldin*, 422 U.S. 490, (1975) Here, the Motion's own exhibit indicates that Movant does NOT hold a secured interest in the real estate. Accordingly, it has no standing to file the Motion. The language of 11 U.S.C. 362 (d) is clear: only a *party in interest* can file a Motion for Relief from Stay.

2. Leaving aside standing, there is no proof of any interest in the deed of trust or the promissory note by Mortgage Electronic Systems. Therefore, the Motion is defective on its face and should be denied.

3. The Movant requests relief to contact the Debtors post-petition in order to get the debtors to do a Loan Workout or a "Loss Mitigation Agreement." Even legitimate creditors are not entitled to engage in these activities post-petition. There is no grounds for allowing a creditor to continue to pursue these debtors for further payments.

Wherefore having answered the Motion it is requested that the relief be denied and that debtors be awarded their attorney fees for having to Respond to the Motion by a interloper entity lacking standing and who also filed a defect Motion for Relief for Stay. Motion with non-creditor.

Dated this 16th day of November 2009.

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*ELLETT LAW OFFICES, P.C.*

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